

End-of-contract and annual best tariff notifications, and review of pricing practices in fixed broadband

Citizens Advice's response to Ofcom's
consultation.

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Summary

Citizens Advice welcomes the opportunity to respond to Ofcom's consultation on end-of-contract and annual best tariff notifications, as well as the proposed scope of the review of pricing practices in fixed broadband.

Each year, we estimate that consumers pay a loyalty penalty of £475m in mobile and £1,277m in broadband.¹ Millions remain in their contracts after the minimum term has ended, and it is disengaged and vulnerable consumers who are hit hardest. The scale and severity of the loyalty penalty in telecoms requires urgent action.

In the mobile sector, the evidence of consumer detriment is clearly established, and swift action is needed.² The proposed timetable set out by Ofcom - under which a final decision will not be made until March 2020 - is far too slow, particularly as any action the regulator takes will likely give companies a lead-in time of at least 6 months to implement. Ofcom must end the practice of charging consumers for a handset they have already paid off as soon as possible, by ensuring that providers selling bundled contracts are clear about the respective costs of the airtime and handset elements and automatically apply a handset discount at the end of the minimum term.

Specific remedies in the broadband sector will, as they should, be informed by Ofcom's comprehensive review of pricing practices. But these proposals should be sufficiently impactful and ambitious, not simply further demand-side remedies. And prompt action is also required here as well - each month that passes costs loyal broadband consumers £100m. In our view, Ofcom's review should also incorporate triple-play, despite the complexity this may bring.

We broadly agree with Ofcom's proposals on notifications but remain of the view that further improvements are necessary. Ofcom should:

- Strengthen the impact of its Randomised Control Trials (RCTs) by mandating providers to comply with the most effective notification content and format.
- Shorten the implementation timescale further, especially for already out-of-contract consumers.
- Reconsider the proposal that providers can send notifications through any durable medium instead of consumers' preferred medium.
- Expand the scope of planned monitoring and evaluation activities to identify the most effective approaches and commit to review guidance in future if necessary.
- Collect more data on long-term out-of-contract consumers to assess whether further interventions may be required for the most disengaged consumers.

While a step in the right direction, notifications alone are insufficient to stop the loyalty penalty in telecoms - Ofcom should bring forward additional robust proposals promptly.

¹ £475m in mobile and £1.277bn in broadband year. [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), Citizens Advice, September 2018

² [Reviewing bundled handsets](#), Citizens Advice, 2018. See also the CMA response to our super-complaint and Ofcom's own evidence on the issue in its [pricing trends report](#).

Scope of Ofcom's broadband pricing review

In the mobile and broadband market, millions of consumers remain in their contracts once the minimum term has ended. As a result they pay a loyalty penalty, costing them hundreds of millions of pounds each year.³ For broadband consumers, monthly prices rise by an average of 43% (£113) when the minimum term ends.⁴ This price rise is rarely included in advertising and it is often hard to locate on providers' websites.

Consumers are often unaware of these rises: 2 in 5 (39%) broadband customers surveyed believe that long-standing customers pay the same or less than newer customers. Price rises at the end of minimum contract terms are not unique to the broadband market, but extent of this rise is particularly sharp.

This is, in effect, a systematic scam. Nobody would choose to pay these extortionate sums—companies charge these prices solely in the hope that people won't notice. And many don't. Ofcom must ensure that its review of broadband pricing practices takes into consideration the disproportionate impact on vulnerable consumers and take swift, firm action: all low income and vulnerable consumers should stop paying the loyalty penalty in this sector.

Action must be taken soon - March 2020 is too late

Each month that passes without action costs loyal broadband consumers over £100m. We first published our report on the loyalty penalty in the broadband sector in April 2017,⁵ and according to the timeline in its consultation Ofcom plans to release statements on both mobile and broadband sectors in March 2020.

We consider no action on this rip-off before at least March next year to be far too late. The CMA has set a deadline of June 2019 to report to government on the progress they, Ofcom and the FCA have made to protect loyal customers.⁶ Ofcom should bring forward its timeline and present remedies for ending the broadband loyalty penalty promptly.

If any potential remedies require just a 6-month implementation period before coming into effect, loyal broadband consumers would have overpaid by more than *£2 billion* since this the close of this consultation before seeing any benefit.⁷

Loyal broadband consumers pay a significant penalty - £1,277m annually

We estimate that 11.3m households pay a total yearly broadband loyalty penalty of £1.28bn each year - £113 each on average. And the difference between in-contract and out-of contract broadband prices (43%) is significant and proportionally much higher

³ [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), Citizens Advice, 2018

⁴ [Exploring the loyalty penalty in the broadband market](#), Citizens Advice, 2017

⁵ Ibid.

⁶ [Here's how to stop loyal customers losing £11 million a day](#), Citizens Advice, 2018

⁷ Assuming a 6 month implementation period, 19 months from Feb 2019 to Sept 2020 at £1.277bn/yr.

than in other sectors such as energy, where the gap is 12%.⁸ More than 9 in 10 (96%) consumers think this penalty is unfair.⁹ As average household spend on broadband has risen in recent years, mainly due to growth in superfast broadband, the loyalty penalty for this essential service must end. Loyal consumers also face a penalty in that they often could upgrade to a new deal for the same price as their out-of-contract cost and receive a significantly better service, such as upgrading to superfast broadband.

Telecoms is a difficult market for consumers to navigate. Ofcom recognises that the growing complexity and availability of tariffs could lead consumers to disengage from the market entirely.¹⁰ Indeed, considering the size of the loyalty penalty, this market features a very low engagement rate (as measured by switching levels). And many consumers are unaware that they even face a penalty in broadband: 36% think that providers charge loyal customers the same or less than new customers, while of the 34% of people who have remained on their current broadband contract because they trust their provider, 3 in 4 are likely to be paying a loyalty penalty.¹¹ We see further evidence of inertia from Ofcom's pricing trends report: 39% of dual play customers did not switch after their initial contract period expired.¹²

Ofcom notes in its consultation that differential pricing in the broadband market occurs in relation to the customer's contractual status with their provider - whether they are in or out of the initial contract period. While savvy, engaged consumers can find and switch to better value deals due to competition for new customers, our evidence from across multiple sectors demonstrates that vulnerable consumers are systematically overcharged for their loyalty. At an absolute minimum Ofcom must ensure that vulnerable and low income broadband consumers are adequately protected and do not fall victim to the loyalty penalty.

This should happen irrespective of whether vulnerable consumers are more likely to pay a loyalty penalty than the general population. Measures undertaken for vulnerable consumers are not a replacement for whole-of-market approaches given the difficulty in targeting interventions precisely and fully at those who need protection. Particularly for transient vulnerabilities, the best way of making markets work for vulnerable loyal consumers will be making markets work for all vulnerable consumers.

We also note that Ofcom raises the question of how to balance remedies that might improve outcomes for one group of consumers at the expense of another. On this, we would expect the interests of vulnerable and low income consumers must come first in such decisions. The potential for wider price increases cannot be a justification for not taking action against systemic practices that disproportionately penalise vulnerable consumers.

⁸ [Exploring the loyalty penalty in the broadband market](#), Citizens Advice, 2017

⁹ Ibid.

¹⁰ [Pricing trends for communications services in the UK](#), Ofcom, May 2018.

¹¹ [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), Citizens Advice, 2018

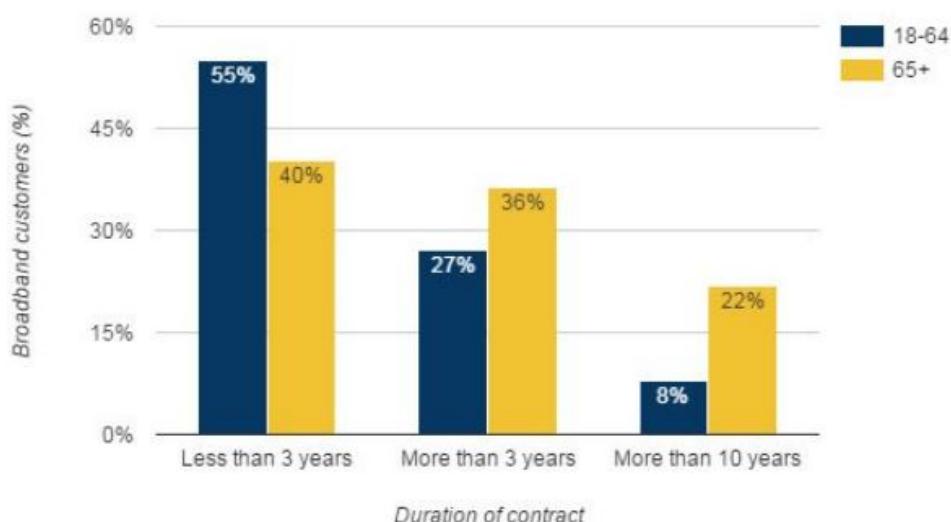
¹² [Pricing trends for communications services in the UK](#), Ofcom, May 2018

Vulnerable consumers are more likely to pay this loyalty penalty

Potentially vulnerable groups, such as those on low incomes, older people, people with health problems and those with lower levels of formal education, are more likely to struggle with shopping around and switching, and are therefore less likely to drive competition. Because they are more likely to be digitally excluded or have lower levels of digital skills, vulnerable consumers are less likely to benefit from new digital tools. These people are disproportionately more likely to experience the financial impact of the loyalty penalty, suggesting that greater protections are likely necessary for some of these groups. We welcome that Ofcom recognises the disproportionate impact that unfair broadband pricing practices have on potentially vulnerable consumers.

Older adults often have a reduced digital capability, with two-thirds of people aged 75 and over, and 3 in 10 aged 65-74 not using the internet.¹³ Less than half of over 65s have basic digital skills, which may prevent older people from using price comparison tools - the most common way of shopping around.¹⁴ People aged 65 and over are 20% more likely to pay the loyalty penalty on their broadband contract.¹⁵

Almost 6 in 10 (59%) customers aged 65 and over are paying the broadband loyalty penalty, having been in their contract longer than the minimum period, compared to just under 4 in 10 (38%) of those under 65. Our broadband loyalty penalty research shows older customers are more likely to say in contracts for longer:



Telecoms can be a particularly difficult market to navigate for consumers with **mental health problems**.¹⁶ Among our Citizens Advice clients, those with mental health problems are twice as likely as our average client to come to us for help on how to find

¹³ [Later life in a digital world](#), Age UK, 2015

¹⁴ [Basic Digital Skills](#), DotEveryone, UK report, 2015

¹⁵ [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), Citizens Advice, September 2018

¹⁶ [Essential service markets and people with mental health problems](#), Citizens Advice, 2018

a good deal in phones, TV, broadband and other markets.¹⁷ Within the broadband market, consumers with mental health problems were more than twice as likely to say their main reason for staying in their contract was because switching was too difficult compared to those without mental health issues (17% and 7%). Additionally, nearly 1 in 5 (17%) of those with mental health problems that impacted their daily life said they found the process of switching broadband contracts time consuming, compared to just 9% of those who had not experienced mental health problems.

Lower income households are also more likely to experience the broadband loyalty penalty. Those earning between £7,001 and £21,000 are almost 3 times as likely as those earning more than £55,000 to be in their contracts for 10 years or more.¹⁸

Vulnerable groups are most likely to find the telecoms sector hard to navigate and overly complex, making it more difficult for them to get the right deal that meets their needs. Research undertaken with local Citizens Advice advisers suggests that telecoms providers fall behind other sectors in how they support and deal with vulnerable customers.¹⁹ A well-functioning competitive market should not rely on excessive price differentials or disengaged vulnerable customers paying a significant loyalty penalty. Ofcom must consider a wide range of remedies to ensure that providers do not take advantage of inertia or disengagement to penalise vulnerable consumers.

Ofcom also plan to consider whether any updates should be made to the reporting requirements placed on providers in relation to their vulnerable customers, such as through standardising definitions of potentially vulnerable customer groups. We would support this. However, it is important that defining and categorising 'vulnerability' does not come at the expense of tangible improvements to the way providers support and engage with their customers - including those who may be 'vulnerable' for a variety of reasons. Our primary research with vulnerable consumers last year found that they experience significant difficulties at different points in the customer journey, and identified best practice for providers.²⁰ Our ongoing research with people with mental health problems also seeks to identify workable, practical improvements to how essential service providers support their vulnerable customers.²¹ We look forward to sharing the findings of this work with Ofcom and other stakeholders later in 2019.

Greater data collection and reporting on vulnerability is essential part of this, and we welcome Ofcom's broad definition of vulnerability as outlined in its consultation document. We agree with Ofcom that not all providers may currently have adequate reporting in place to identify all potentially vulnerable customers (understood in the

¹⁷ [Exploring the loyalty penalty in the broadband market](#), Citizens Advice, 2017

¹⁸ [Exploring the loyalty penalty in the broadband market](#), Citizens Advice, 2017

¹⁹ Internal survey of Citizens Advice advisers, unpublished, 2018.

²⁰ Our research identified difficulties experienced by vulnerable consumers from choosing the right deal, to managing their relationship with the provider through to bill payments and debt issues. We identified areas for providers to improve and have been engaging with industry, Ofcom and other stakeholders on the findings from this work and plan to publish in the next few months.

²¹ This builds on our research identifying [4 behaviour types](#) that people with mental health problems may experience that can make it difficult to manage their relationship with essential service providers.

broad sense)²² - our evidence shows that some can be reluctant to disclose to providers in the first place, and fluctuating or temporary vulnerability will by definition be harder to capture. Any view of vulnerability as part of the broadband review should therefore not be limited to existing provider data, and should seek to identify the impact on a wide range of potentially vulnerable consumer groups who may be at disproportionate risk of detriment from unfair pricing practices. We support Ofcom's proposals to use a range of tools to build this understanding.

Ofcom should consider a wide range of interventions as part of its review

We recognise that one of Ofcom's key principles for regulation is to have a bias against intervention.²³ But the scale and severity of the impact of the loyalty penalty on vulnerable consumers mean that a full range of remedies - not just demand-side - must be considered.

Whilst we support Ofcom's current proposals on notifications to help consumers engage with the market and switch to better deals, experience from other sectors suggests they will have at best a modest impact on consumer behaviour. For example, previous efforts in the savings market have had 3-9% impact on switching, home and motor insurance 3.2%, and a more successful Ofgem collective switch trial achieved a 22.4% rate compared to a control of 2.6%. Information alone, then, will not fix the loyalty penalty, especially for the more disengaged and vulnerable consumers most likely to suffer it. Further interventions are likely to be necessary to reduce harm to consumers.

The risks associated with demand-side responses are limited; this is why regulators have traditionally preferred them. We recognise that direct price regulation can carry significant risks to the competitive dynamics in the market, so must be carefully considered. In certain circumstances, price discrimination can intensify competition²⁴ and there are examples of well-intentioned attempts to regulate price differentials in the UK that have failed. Nonetheless, we think it is likely that skilful interventions can be found that properly balance between reducing price differentials for loyal consumers while also ensuring that competitive dynamics are not disrupted.²⁵ This is particularly true of interventions that are targeted to particular consumer groups. The FCA has been pioneering in this approach, using price regulation as an active part of its regulatory arsenal.

²² Based on our conversations with providers. We look forward to seeing the results of Ofcom's analysis of existing provider data on vulnerability in its consultation later in 2019.

²³ [Better Policy Making](#), Ofcom

²⁴ Tariff diversity may have led to greater broadband adoption in the EU. M. Lange, [Tariff Diversity and Competition Policy - Drivers for broadband adoption in the European Union](#), July 2017

²⁵ For example, limits on how much energy companies could charge their pre-privatisation region's customers led to many suppliers increasing prices for acquisition deals, rather than lowering everyone's prices. Waddams Price and Zhu, [Pricing in the UK retail energy market, 2005 - 2013](#), December 2013.

We note that in its response to our super-complaint, the CMA recommends that Ofcom “consider a number of possible interventions including tackling broadband legacy pricing and targeted safeguard caps to protect vulnerable consumers”.²⁶ Given the extent of the loyalty penalty in the broadband sector, Ofcom must take meaningful action soon. Based on the experience of other regulators and sectors, we think there are a number of targeted and proportionate solutions that would achieve positive outcomes for consumers. As the regulator, Ofcom has the resources and expertise to model the likely impact of such remedies through their review of pricing practices.

The approach of the FCA in its discussion paper on price discrimination in the cash savings market may be a suitable template for Ofcom in its review of pricing practices in broadband. Similarly to broadband, the cash savings market has a high level of consumer inertia, that in effect means loyal consumers pay a loyalty penalty through receiving lower interest rates.²⁷ The FCA modelled the potential impact of various supply and demand-side remedies to address price discrimination in this market. It is essential that Ofcom collect all the data required to build similar models for the broadband market. This should include at a minimum how much providers charge customers, how long they have been with the same provider, and how long they have been on their specific deal. We welcome the data collection activities outlined in Ofcom’s consultation.

We consider that this approach, applied to a full range of policy options in the broadband market, would provide Ofcom with a strong evidence base from which to select the most impactful and proportionate remedies to address the broadband loyalty penalty. We recommend that this analysis include, but not be limited to, the following remedies:

Transferring vulnerable customers onto the best available deal for their needs

Safeguard tariffs, such as BT Basic, already exist in the broadband sector. Transferring vulnerable loyal customers, defined by specific criteria, onto the best available deal that their provider has available for new customers would eliminate the loyalty penalty for affected groups. This may disincentivise some vulnerable consumers from an external switch to an even better deal elsewhere. But given the lower levels of switching by these consumers, we expect the impact on the aggregate welfare of these consumers to be significantly positive. Eligibility could be determined by existing support, such as being in receipt of certain state benefits, or alternative criteria. Ofcom should explore whether identification and transfer of vulnerable customers would be best delivered through providers or whether the Digital Economy Act’s provisions for secure data sharing could facilitate this.

While this would help eligible vulnerable consumers be on a suitable deal and we encourage Ofcom to explore the viability of this remedy in the broadband sector, we note that a drawback to setting eligibility criteria for additional protections is that some

²⁶ [Tackling the loyalty penalty: response to a super-complaint made by Citizens Advice](#), Competition and Markets Authority, December 2018

²⁷ [Price discrimination in the cash savings market](#), Financial Conduct Authority, 2018

vulnerable consumers will inevitably be excluded where they do not fit into rigidly defined 'eligible' categories. This is likely to be more of an issue where vulnerability may be harder to define, such as people with mental health problems or those experiencing temporary and/or fluctuating vulnerability due to life events. Ofcom should therefore consider whether whole-of-market protections could be more effective remedies for vulnerable consumers.

Absolute price caps or whole-of-market safeguard tariffs

Ofgem currently has a vulnerable customer safeguard tariff that caps the energy bills of customers who are eligible for the warm home discount. Last year, we estimated that this would save customers on a standard variable tariff up to £230 a year.²⁸ This approach has attractions in the retail energy market, but we recognise that there may be limited application to the broadband market given the greater variety of products and packages on offer.

Limits or bans on price walking

As outlined earlier in this section, our evidence shows that vulnerable customers are more likely to be long-standing customers and less likely to shop around for better deals. As part of its review, Ofcom should explore whether measures to limit the impact of price walking in the broadband market would be in consumers' interests.

Differential price caps

Imposing a maximum percentage difference between new and loyal customers would reduce the loyalty penalty substantially in many markets. In some markets, where competition is weaker, this could encourage firms to price at what they charge their loyal customers, rather than lower the price they charge loyal customers to maintain their acquisition price. In other markets, fear of losing acquisition customers may encourage firms to lower their price to loyal consumers. In broadband we see significant differentials. We welcome Ofcom's commitment to examine differentials in greater detail, especially where vulnerable consumers are disproportionately affected.

Collective switching

We fully agree with the CMA's recommendation that Ofcom should review the feasibility of collective switching for broadband customers, but note that the broadband market displays characteristics that may make this more challenging to implement. For instance, switching in broadband is cumbersome and often requires new hardware. The product is relatively standard, with speed being the main variable and occasionally caps on volume. Collective switching could and should be trialled, but switching barriers may hinder the effectiveness of this remedy.

²⁸

www.citizensadvice.org.uk/about-us/how-citizens-advice-works/media/press-releases/vulnerable-people-to-save-up-to-230-a-year-on-their-energy-bills-according-to-citizens-advice

Ofcom should include triple-play as part of its review of pricing practices

While we recognise the complexity that including triple-play bundles in Ofcom's review would add, we think there is a strong case to be made for its inclusion. Initial evidence suggests that triple-play customers are not only more likely to pay a penalty for loyalty, but also that this penalty is higher than for dual-play.

As Ofcom notes in its consultation, the relative in-contract to out-of-contract spend is higher for triple-play than dual-play (26% compared to 19%). The loyalty penalty in this area is therefore likely to be significant. The CMA estimates that triple play customers may face a loyalty penalty of £156 a year, compared to £72 for dual-play. In addition, triple-play consumers are more likely to be out of contract than consumers on a dual-play bundle (44% compared to 36%).²⁹

There has also been a clear trend towards bundling over the last decade. In 2018, 31% of consumers bought a triple play bundle of landline, broadband and pay TV, rising from 12% in 2009.³⁰ There may also be unintended distortive impacts on triple-play and the wider market if Ofcom were to introduce pricing interventions for dual-play products only - a comprehensive review should incorporate as much of the broadband market as possible, not be limited to just dual-play.

Finally, we welcome Ofcom's commitment to look specifically at how vulnerable consumer groups may be disproportionately affected by broadband pricing practices. In our view, Ofcom's review should consider whether - as the CMA modelling suggests - triple-play customers are more likely to be at risk of paying the loyalty penalty. The review should also consider whether vulnerable consumers are at greater risk of being penalised in the triple-play market.

²⁹ [Pricing trends for communications services in the UK](#), Ofcom, May 2018

³⁰ *Ibid.*

End-of-contract and best tariff notifications

Mandating notifications is a step in the right direction

We broadly support the measures outlined in Ofcom's consultation. We agree with Ofcom that ensuring consumers are aware of any changes to their billing or services at the end of their minimum term helps them to make informed decisions about finding the best deal that meets their telecoms needs. Too few consumers currently know their options, for instance that they could save by switching to a SIM-only deal. While notifications will never fix the loyalty penalty alone, they are a step in the right direction.

Citizens Advice research has found that as many as 3 in 4 (75%) of broadband customers are not aware of ever being notified by their current provider that they could save money by moving to a cheaper deal.³¹ This doesn't necessarily suggest that they are failing to inform consumers altogether, but it suggests that, even when firms are notifying consumers, their communications are often ineffective.

We are pleased that the second consultation includes strengthened proposals including Randomised Control Trials (RCTs) to determine the most effective message. In line with best practice from other regulators and the Behavioural Insights team, conducting RCTs will enable Ofcom to identify the most effective content and format of notifications.

We also welcome that Ofcom's proposals will require providers to send more than one notification to consumers: the proposals for providers to send at least annual best tariff notifications are welcome, as the experience from other sectors of the effectiveness of notifications suggests that impact on switching behaviour is relatively limited. Ensuring long-term disengaged consumers are regularly contacted about more suitable options is likely to be more effective than a one-off notification.

Best tariff advice is an essential part of the notification

We broadly agree with Ofcom's proposals, set out in chapter 5 of its consultation, to include the information necessary for consumers to understand their current deal and the options available to them, including how they can switch to best tariff for their needs after their minimum term. We consider the proposals proportionate and see the benefits of providing the end user with all the relevant information to make an informed decision as outweighing the risk of overload.

We agree that best tariff information and advice - such as that outlined in Ofcom's proposals - is essential, as evidence from other sectors suggests personalised information relating to usage and price can boost switching. It is essential that Ofcom test and monitor how this is delivered, and commit to changing its guidance if a particular approach proves to be more effective than others. Information remedies in

³¹ Citizens Advice, [The cost of loyalty: exploring how long-standing customers pay more for essential services](#), February 2018

the savings market found that small tweaks to the format, timing and content of notifications to make it easier for consumers had an impact on switching rates:³²

- Front-page information about available higher rates led to an increase in switching from 3% to 6%. Non-front-page disclosures had no effect.
- A pre-filled return form increased switching from a baseline of 3% to 12%.
- Optimal timing of reminders to switch prompted an increase from 4.7% to 8.2%.

We also welcome Ofcom's proposals to include tariffs based on consumers' usage patterns. It is important that these tariffs are not biased towards suggesting higher data allowances, as our recent research found that a majority (71%) of SIM-only customers are overpaying for data they do not need or use.³³ We recommend that as part of its monitoring programme, Ofcom collect data on the types of tariffs offered by providers to ensure that an appropriate suite of 'best tariffs' is offered through notifications.

We recognise that Ofcom is currently consulting on mobile handsets, and at this time does not wish to include transparency on the cost of the handset and airtime in these notifications. As per our submission to the mobile handset consultation, it is essential that Ofcom ensure providers selling bundled contracts make this clear to consumers. We strongly recommend that if Ofcom introduces such measures following the end of this consultation, this information - as a key factor in the end user's decision about best tariffs - should be incorporated into its current proposals on notifications.

However, in our view Ofcom should reconsider their proposal that providers can send notifications through any durable medium instead of consumers' preferred medium. For notifications to be effective, they must be sent in the way consumers are most likely to pay attention to - which may vary from person to person. Allowing providers to send notifications through channels which may be less likely to impact consumer behaviour risks undermining the aims of this intervention.

We are also concerned about the risk that some consumers may easily miss their notification if sent by email, while recognising that this would be a preferred channel for others. We think the medium for notifications should be limited to consumers' preferences, with a default paper copy if no explicit preference for digital alternatives has been expressed for broadband consumers, and an SMS with a hyperlink to further information for mobile notifications. We agree that the notification should be a standalone communication.

But Ofcom's proposals should be strengthened further

We note that in its consultation Ofcom raises the lack of voluntary action from the sector on the mobile handset loyalty penalty. To ensure these notifications are as effective as possible, Ofcom should strengthen its proposals relating to Randomised

³² [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), Citizens Advice, September 2018

³³ [Majority of mobile consumers overpaying for data](#), Citizens Advice, 2019

Control Trials (RCTs) by mandating providers to comply with the most effective notification content and format. Ofcom should also make a stronger commitment to testing notifications in practice with consumers to establish the most impactful messaging and timing, including whether sending two notifications (such as on the day the minimum term ends) is more effective.

The current proposals still only require providers to send 1 notification up to 40 days ahead of end of the minimum contract term. We feel this is still a long time for consumers to take meaningful action, notwithstanding the risk that they would forget to do so from only 1 prompt. We would be also concerned that providers might use RCTs and behavioural insights to 'game' the notification in a way that has the effect of suppressing switching rates away from their services.

It is also essential to evaluate and monitor the impact of such interventions. We welcome the proposal to require providers to keep records of the notifications they send to customers, including the content and timing of messages. We think that Ofcom should strengthen its evaluation proposals by requiring providers to record additional information on the impact of notifications, including but not limited to the length of time the customer stayed on the same contract after the notification, whether they switched to a new deal with the same provider, and whether they switched to a different provider.

While it may not be possible to determine the exact impact the notification had on switching behaviour at an individual level, we think this additional level of detail at a provider and market level, in combination with other evaluation tools outlined in the consultation, will help Ofcom to identify the most effective form of notifications. Ofcom should also commit to a review of the approach set out in this consultation, to learn from its monitoring programme and ensure that its proposals remain fit for purpose.

Ofcom should also shorten the implementation timescale from 6 months - we consider this to be disproportionately long given providers already have systems in place to deliver messages to their customers and information on their contractual status. Given the low burden of this intervention on providers, we recommend that Ofcom shorten this period further to ensure consumers see the benefits sooner rather than later.

However, notifications - no matter how well designed - will not be enough to prevent consumers unfairly overpaying when their contract ends

Analysis of the effectiveness of notifications in other sectors suggests an increase in switching rates of only around 2-9%.³⁴ Demand-side remedies are highly unlikely to fix the loyalty penalty on their own, and we were pleased to see the CMA support our call to move providers onto a fairer tariff at the end of their minimum term. As we noted in our response to Ofcom's ongoing consultation on mobile handsets, we see two

³⁴ [Excessive prices for disengaged consumers: A super-complaint to the Competition and Markets Authority](#), Citizens Advice, September 2018

solutions to the loyalty penalty in this sector.³⁵ Ofcom must ensure that providers selling bundled mobile contracts:

- Are clear about the respective costs of the airtime and handset elements; and
- Automatically apply a handset discount to their customers' bills at the end of their minimum term.

The evidence of the mobile handset loyalty penalty is clearly established.³⁶ The practice of charging consumers for a handset they have already effectively paid off must be stopped as soon as possible. Ofcom currently propose to publish a statement 12 months after the initial consultation on the issue, in March 2020. We consider this timeline to be unacceptably slow. Ofcom must move quickly to implement interventions to end the mobile handset loyalty penalty, as it is clear that voluntary action from providers is not forthcoming.

As outlined in the previous chapter on the scope of Ofcom's review of broadband pricing practices, additional demand-side remedies should also be explored as part of a suite options to tackle the loyalty penalty in this market as well.

Ofcom should explore if further interventions could ensure hard to reach and long-term out-of-contract customers are not penalised for their loyalty

Mobile consumers who are already out-of-contract are likely to be more disengaged from the market and are not helped by the proposals set out in Ofcom's handset consultation.³⁷ Ofcom should gather information on consumers who are outside of their minimum mobile contract period, as it intends to do for broadband consumers, and conduct a review to explore whether, and which further interventions are necessary to prevent this group continuing to pay the loyalty penalty. This could include migrating customers from tariffs that are no longer available to new customers ('dead tariffs') onto open tariffs, where this would be beneficial to the customer.³⁸ Collective or automatic switching initiatives should also be considered as a way of helping long-term disengaged consumers migrate onto better deals.

Reducing the implementation period by 3 months to 6 months for consumers who are currently out-of-contract is also a welcome step. However, this implementation period is still too long given the simple nature of the notification and the fact that providers already hold the relevant information and means to communicate with their customers. In our view, it should be shortened further.

³⁵ [Mobile handset consultation response](#), Citizens Advice, 2018

³⁶ [Reviewing bundled handsets](#), Citizens Advice, 2018. See also the CMA response to our super-complaint and Ofcom's own evidence on the issue in its [pricing trends report](#).

³⁷ [Helping consumers to get better deals in communications markets: mobile handsets](#), Ofcom, September 2018

³⁸ Ofgem proposed this option in its [2013 review](#) of simpler tariff choices in the retail energy market